

09-28-01

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Docket # PF-0221-2 DIV

"Express Mail" mailing label number EL 856 148 313 US. I hereby certify that this document and referenced attachments are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, addressed to: Commissioner for Patents, Box Patent Application, Washington, D.C. 20231 on September 26, 2001.

By: Michelle M. StempierPrinted: Michelle M. Stempier

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)**

Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

Dear Sir:

This is a request for filing a **DIVISIONAL** application under 37 CFR 1.53(b) of pending prior application Serial No. 09/391,958, filed on September 8, 1999, entitled NOVEL HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER, which is a divisional application of U.S. application Ser. No. 08/805,118, filed February 24, 1997, which issued on November 16, 1999 as U.S. Patent No. 5,985,604, entitled HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER.

1. X Enclosed is a specification corresponding to the prior application, U. S. Application Serial No. 09/391,958 filed September 8, 1999, including the oath or declaration as originally signed. The specification does not contain any subject matter that would have been new matter in the prior application.
2. X With regard to the requirement of 37 CFR 1.821(e) which requires that a copy of the Sequence Listing in computer readable form (CRF) be submitted, Applicants state that the paper copy of the Sequence Listing for the instant divisional application is identical with the computer readable form filed with Serial No. 09/391,958, filed September 8, 1999, to which priority is claimed. In accordance with 37 C.F.R. § 1.821(e), please use the computer readable form filed with U.S. Application Serial No. 09/391,958 as the computer readable form for the instant divisional application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant divisional application.
3. X Cancel in this application original claims 2-10, 13-29, 46-55 and 57 before calculating the filing fee, without prejudice or disclaimer. Applicants submit that these claims were included in the application as filed in the interest of providing notice to the public of certain specific subject matter intended to be claimed, and are being canceled at this time in the interest of reducing filing costs. Applicants expressly state that these claims are not being canceled for reasons related to patentability, and are in fact fully supported by the specification as filed. Applicants expressly reserve the right to reinstate these claims or to add other claims during prosecution of this application or a continuation or divisional application. Applicants

expressly do not disclaim the subject matter of any invention disclosed herein which is not set forth in the instantly filed claims.

4. X The inventor(s) of the invention being claimed in this application is (are): Preeti G. Lal; Olga Bandman.
5. X In accordance with 37 CFR 1.63(d) a copy of the originally signed declaration showing applicant's/applicants' signature(s) as filed on August 11, 1997 is enclosed.
6. Amend the specification by inserting after the title: "This application is a divisional application of U.S. application serial number 09/391,958, filed September 8, 1999, ~~all of which applications and patents are hereby incorporated herein by reference.~~" *DJS 5/30/02*
7. X The filing fee is calculated below:

Claims	Number Filed	Minus	Number Extra	Other Than Small Entity		Basic Fee
				Rate	Fee	\$710.00
Total Claims	20	-20	0	x \$18	0	\$0
Indep. Claims	3	-3	0	x \$80	0	\$0
<u> </u> Multiple Dependent Claim(s), if any				+ \$270		\$0

TOTAL FILING FEE \$ 710.00

8. An extension of time in the above-named prior application has been requested and the fees therefore have been authorized in said application.
9. X Please charge Deposit Account No. 09-0108 in the amount of \$710.00.

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 09-0108. A duplicate copy of this Request is enclosed.

10. X New formal drawings are enclosed.
11. X The prior application is assigned of record to Incyte Pharmaceuticals, Inc., recorded on August 11, 1997, at reel 9779/frame 0302.
12. A preliminary amendment is enclosed.
13. X Also enclosed are Information Disclosure Statement (2 pp.) and Form PTO-1449 (3 pp.); Submission of Formal Drawings (1 pg.), and eight (8) sheets of Figures (Figs. 1A, 1B, 1C, 2A, 2B, 3A, 3B and 3C).
14. X The power of attorney of the prior application is to:

Lucy J. Billings

Reg. No. 36,749

Michael C. Cerrone	Reg. No. 39,132
Diana Hamlet-Cox	Reg. No. 33,302
Richard C. Ekstrom	Reg. No. 37,027
Barrie D. Greene	Reg. No. 46,740
Matthew R. Kaser	Reg. No. 44,817
Lynn E. Murry	Reg. No. 42,918
Shirley A. Recipon	Reg. No. 47,016
Susan K. Sather	Reg. No. 44,316
Michelle M. Stempien	Reg. No. 41,327
David G. Streeter	Reg. No. 43,168
Stephen Todd	Reg. No. 47,139
Christopher Turner	Reg. No. 45,167
Peng Ben Wang	Reg. No. 41,420

- ___ The associate power of attorney in the prior application is to:
- a. ___ An associate power of attorney is attached.
- b. ___ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- c. X Address all future correspondence to:

INCYTE GENOMICS, INC.
PATENT DEPARTMENT
3160 Porter Drive
Palo Alto, California 94304
Phone: (650) 855-0555, Fax: (650) 845-4166

Date: 26 Sept 2001

By: _____

Diana Hamlet-Cox

Reg. No. 33,302

Direct Dial Telephone: (650) 845-4639

- ___ Inventor(s)
- ___ Assignee of complete interest
- X Attorney or agent of record
- ___ Filed under 37 CFR 1.34(a)
- ___ Registration number if acting under 37 CFR 1.34(a) _____

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By: Michelle M. Stempier Printed: Michelle M. Stempier

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Preeti G. Lal and Olga Bandman

Title: NOVEL HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER

Serial No.: To Be Assigned

Filing Date:

Herewith

Examiner: To Be Assigned

Group Art Unit:

To Be Assigned

Official Draftsman

Commissioner for Patents

Washington, D.C. 20231

SUBMISSION OF FORMAL DRAWINGS

Sir:

Transmitted herewith are Figures 1A, 1B, 1C, 2A, 2B, 3A, 3B and 3C, as eight (8) sheets of formal drawings for this application. Each sheet of drawing indicates the identifying indicia suggested in 37 CFR Section 1.84(c) on the reverse side of the drawings.

Applicants believe that no fee is due with this paper. However, if the Commissioner determines that a fee is necessary, the Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 09-0108. **A duplicate copy of this communication is enclosed.**

If there are any questions regarding the above, the Examiner is invited to call the undersigned at 650-855-0555.

Respectfully submitted,

INCYTE GENOMICS, INC.



Diana Hamlet-Cox

Reg. No. 33,302

Direct Dial Telephone: (650) 845-4639

Date: 26 Sept 2001

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Palo Alto, California 94304
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